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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Teradata Docket No. 9696

Application of:

SMITH, T. L.

Group Art Unit: 3622

Serial No. 10/008,259

Examiner: Lastra, Daniel

Filed: October 29, 2001

For: SYSTEM AND METHOD FOR PROFILING DIFFERENT USERS HAVING A
COMMON COMPUTER IDENTIFIER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF TRANSMITTAL LETTER

Sir:

Transmitted herewith for filing is an Appeal Brief to the Final Rejection dated
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Respectfully submitted,

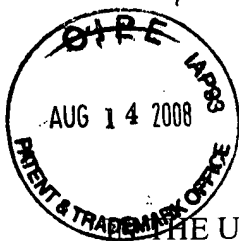
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By: Michelle George
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THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:
Smith, et al.

Serial No. 10/008,259

Filed: October 29, 2001

For: SYSTEM AND METHOD FOR
PROFILING DIFFERENT USERS
HAVING A COMMON COMPUTER
IDENTIFIER

§ Attorney Docket No. 9696
§
§ Customer No. 26890
§
§ Group Art Unit: 3622
§
§ Examiner: Lastra, Daniel
§
§ Confirmation Number: 2587
§

BRIEF ON APPEAL

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This Brief is submitted in connection with an appeal for which a Notice of Appeal was filed 9 June 2008, from the final rejection of the Examiner dated 9 January 2008 finally rejecting claims 1-24.

The Director is hereby authorized to charge any deficiency fees in association with this communication to Deposit Account No. 50-4370.

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8-14-08 Michael George
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08/15/2008 RMEBRAHT 00000018 504370 10008259

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REAL PARTY IN INTEREST

The real party in interest is Teradata Corporation, a corporation having a principal place of business at 2835 Miami Village Drive, Miamisburg, OH 45342, the United States of America.

RELATED APPEALS AND INTERFERENCES

There are no related appeals and no related interferences regarding the above-identified patent application.

STATUS OF CLAIMS

Claims 1-24 are pending, stand finally rejected, and are on appeal here. Claims 1-24 are set forth in the Claims Appendix attached hereto.

STATUS OF AMENDMENTS

No amendments were made to any of claims 1-24 after the Final Office Action was filed 9 January 2008.

SUMMARY OF CLAIMED SUBJECT MATTER

An embodiment, as set forth in independent claim 1, relates to a system for profiling different users having a common terminal identifier (Page 7, 4th Paragraph, Lines 4-5) comprising memory for storing user profile histories, each user profile history being stored in association with a key (Page 13, 1st Paragraph, Lines 6-7; Page 17, 2nd Paragraph, Line 1-Page 18, 1st Paragraph, Line 1); a server for receiving user activity data from clients over a computer network (Page 12, 6th Paragraph, Lines 2-5; Page 13, 1st Paragraph, Lines 3-6; Page 14, 2nd Paragraph, Lines 1-2; Figure 3, step 100); a user activity data analyzer (Figure 2, element 90) for receiving the user activity data from the server and for extracting profile data from the user activity data (Page 7, 4th Paragraph, Lines 4-6; Page 8, 1st Paragraph, Lines 2-4; Page 18, 2nd Paragraph, Lines 2-4; Page 18, 2nd Paragraph, Line 8-Page 19, 1st Paragraph, Line 3; Figure 3, step 104); a user identifier (Figure 2, element 92) for searching the user activity data for key data that identifies one of a user terminal and a user account and for determining whether the key data located in the user activity data corresponds to a key stored in the memory (Page 7, 4th Paragraph, Lines 6-7; Page 8, 1st Paragraph, Lines 4-6; Page 18, 2nd Paragraph, Lines 2-4; Page 19, 1st Paragraph, Lines 3-5 and Line 21-Page 20, Paragraph 1, Line 4; Page 21, 1st Paragraph, Lines 2-3; Page 21, 2nd Paragraph, Line 1-Page 22, 1st Paragraph, Line 3; Figure 3, step 108 and step 128); and a user profile generator (Figure 2, element 94) for generating a user profile history from the extracted profile data and a user identifier key from the key data in response to the key data corresponding to a key stored in the memory and the extracted profile data not corresponding to the user profile history stored in the memory in association with the key that corresponds to the key data, the generated user identifier key indicating the generated user profile history is associated with a user that is different than a user associated with the key stored in the memory (Page 7, 4th Paragraph, Line 8-Page 8, 1st Paragraph, Line 1; Page 8, 1st Paragraph, Lines 6-10; Page 18, 2nd Paragraph, Lines 2-3; Page 19, Line 21-Page 20, 1st Paragraph, Line 1 and Lines 3-6).

Another embodiment, as set forth in independent claim 13, relates to a method for profiling different users having a common terminal identifier (Page 7, 4th Paragraph, Lines 4-5) comprising storing user profile histories in a memory, each user profile history being stored in the memory in association with a key (Page 13, 1st Paragraph, Lines 6-7; Page 17, 2nd Paragraph,

Line1-Page 18, 1st Paragraph, Line 1); receiving user activity data at a server from clients over a computer network (Page 12, 6th Paragraph, Lines 2-5; Page 13, 1st Paragraph, Lines 3-6; Page 14, 2nd Paragraph, Lines 1-2; Figure 3, step 100); receiving the user activity data from the server (Page 8, 1st Paragraph, Lines 2-4; Page 18, 2nd Paragraph, Lines 2-4; Page 18, 2nd Paragraph, Line 8-Page 19, 1st Paragraph, Line 3); extracting profile data from the user activity data (Page 7, 4th Paragraph, Lines 4-6; Page 8, 1st Paragraph, Lines 2-4; Page 18, 2nd Paragraph, Line 8-Page 19, 1st Paragraph, Line 3; Figure 3, step 104); searching the user activity data for key data that identifies one of a user terminal and a user account (Page 19, 1st Paragraph, Lines 3-7; Page 21, 1st Paragraph, Lines 2-3; Figure 3, step 108); determining whether the key data located in the user activity data corresponds to a key stored in the memory (Page 19, 1st Paragraph, Lines 3-7 and Line 21-Page 20, Paragraph 1, Line 4; Page 21, 1st Paragraph, Lines 2-3; Page 21, 2nd Paragraph, Line 1-Page 22, 1st Paragraph, Line 3; Figure 3, step 128); generating a user identifier key from the key data and a user profile history from the extracted profile data in response to the key data corresponding to a key stored in the memory and the extracted profile data failing to correlate to the user profile history stored in the memory in association with the key stored in the memory (Page 7, 4th Paragraph, Line 8-Page 8, 1st Paragraph, Line 1; Page 8, 1st Paragraph, Lines 6-10; Page 18, 2nd Paragraph, Lines 2-3; Page 19, Line 21-Page 20, 1st Paragraph, Line 1 and Lines 3-6); storing the generated user identifier key in the memory (Page 20, 1st Paragraph, Lines 4-6; Page 22, 1st Paragraph, Lines 4-6); and storing the generated user profile history in the memory in association with the generated user identifier key and the key to which the key data corresponded so the generated user profile history is associated with a user that is different than a user associated with the user profile history stored in association with the key stored in memory to which the key data corresponded, but both the generated user profile history and the user profile history stored in the memory are associated with the key that corresponded to the key data (Page 20, 1st Paragraph, Lines 4-9).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

I. Claims 1 and 13 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Appellants regard as the invention.

II. Claims 1-24 were rejected under 35 U.S.C. § 102(e) over U.S. Patent Application No. 2001/0049620 to Blasko ("Blasko").

ARGUMENT

ISSUE 1 - Rejections Under 35 U.S.C. § 112, Second Paragraph

The first issue for the Board's consideration is whether claims 1 and 13 are unpatentable under 35 U.S.C. § 112, second paragraph, for being indefinite for failing to point out and distinctly claim the subject matter which the Appellants regard as the invention.

For purposes of this appeal, claim 13 stands or falls together with claim 1 in view of 35 U.S.C. § 112, second paragraph.

As detailed below, the Appellants believe that claims 1 and 13 particularly point out and distinctly claim the subject matter which the Appellants regard as the invention.

Claims 1 and 13

Appellants traverse the rejection of these claims on the grounds that claims 1 and 13 are definite and distinctly claim the subject matter which the Appellants regard as the invention.

Claim 1 recites the following:

1. A system for profiling different users having a common terminal identifier comprising:
 - memory for storing user profile histories, each user profile history being stored in association with a key;
 - a server for receiving user activity data from clients over a computer network;
 - a user activity data analyzer for receiving the user activity data from the server and for extracting profile data from the user activity data;
 - a user identifier for searching the user activity data for key data that identifies one of a user terminal and a user account and for determining whether the key data located in the user activity data corresponds to a key stored in the memory; and
 - a user profile generator for generating a user profile history from the extracted profile data and a user identifier key from the key data in response to the key data corresponding to a key stored in the memory and the extracted profile data not corresponding to the user profile history stored in the memory in association with the key that corresponds to the key data, the generated user identifier key indicating the generated user profile history is associated with a user that is different than a user associated with the key stored in the memory.

Claim 1 was rejected under 35 U.S.C. § 112, second paragraph, for being indefinite for failing to point out and distinctly claim the subject matter which the Appellants regard as the invention. The Examiner stated the following with regard to the claims 1 and 13 limitation of the

generated user identifier key indicating the generated user profile history is associated with a user that is different than a user associated with the key stored in the memory:

[I]t is not clear how the generated user identifier key indicates that the generated user profile history is associated with a user that is different from a user associated with the key stored in the memory.

Final Office Action dated 9 January 2008, Page 3.

Appellants respectfully disagree. For example, with regard to the key, the subject application recites the following:

These data are provided to user identifier 92 and identifier 92 searches the profile data to locate keys, indices, or the like that are used to store profiles in profile database 84. The key data are data that identifies the terminal or account from or through which a user accesses a communication network to which system 80 is coupled. Such data may include cookie data, an IP address, a subscriber identifier, or the like.

Subject Application, Page 19, Lines 3-8.

If the correlation does not exceed the threshold, an additional user is provisionally detected for the key. In this event, user profile generator 94 generates a new profile and generates a key that further provides a user identifier as well as a computer identifier for storage of the profile.

Subject Application, Page 20, Lines 3-6.

Thus, the subject application is clear that a key comprises data, e.g., cookie data, an IP address, a subscriber identifier, etc., that identifies a terminal or account through which a user accesses the network. Further, if an additional user is detected for a key, the profile generates a new profile and corresponding key.

As the PTO provides in MPEP § 2173.01:

The test for definiteness under 35 U.S.C. 112, second paragraph, is whether "those skilled in the art would understand what is claimed when the claim is read in light of the specification." Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1576, 1 USPQ2d 1081, 1088 (Fed. Cir. 1986).

Appellants submit that those skilled in the art would understand that the generated user identifier key indicates that the generated user profile is associated with a user that is different from a user associated with the key stored in the memory simply by being different than the key stored in memory. Further, those skilled in the art would recognize that the generated user identifier key is different than the key stored in the memory because there would be no purpose or reason for generating a key that does not differ from the existing key.

Thus, Appellants submit that claim 1 is definite and distinctly claims the subject matter which the Appellants regard as the invention.

Accordingly, withdrawal of the rejection of claim 1 under 35 U.S.C. § 112, second paragraph, is requested.

Independent claim 13 recites similar features as claim 1 and was rejected for the same rationale under 35 U.S.C. § 112, second paragraph. For at least the reasons discussed above, withdrawal of the rejection of claim 13 under 35 U.S.C. § 112, second paragraph, is requested.

ISSUE 2 - Rejections Under 35 U.S.C. § 102(e) Over Blasko

The second issue for the Board's consideration is whether claims 1-24 are unpatentable under 35 U.S.C. § 102(e) over Blasko.

For purposes of this appeal, claims 1-12 and 14-24 stand or fall together with claim 13 in view of Blasko.

As detailed below, Appellants believe that Blasko is insufficient to anticipate claims 1-24. More specifically, it is the Appellants' belief that Blasko fails to teach every element of claims 1 and 13.

Claims 1-24

Appellants traverse the rejection of these claims on the grounds that Blasko does not teach every element of claim 13. It is well settled that, in order to reject a patent under 35 U.S.C. § 102(e), the reference must teach every claim element. The PTO provides in MPEP § 2131 that

"[t]o anticipate a claim, the reference must teach every element of the claim...."

Claim 13 recites the following:

13. A method for profiling different users having a common terminal identifier comprising:
 - storing user profile histories in a memory, each user profile history being stored in the memory in association with a key;
 - receiving user activity data at a server from clients over a computer network;
 - receiving the user activity data from the server;
 - extracting profile data from the user activity data;

searching the user activity data for key data that identifies one of a user terminal and a user account;

determining whether the key data located in the user activity data corresponds to a key stored in the memory;

generating a user identifier key from the key data and a user profile history from the extracted profile data in response to the key data corresponding to a key stored in the memory and the extracted profile data failing to correlate to the user profile history stored in the memory in association with the key stored in the memory;

storing the generated user identifier key in the memory; and

storing the generated user profile history in the memory in association with the generated user identifier key and the key to which the key data corresponded so the generated user profile history is associated with a user that is different than a user associated with the user profile history stored in association with the key stored in memory to which the key data corresponded, but both the generated user profile history and the user profile history stored in the memory are associated with the key that corresponded to the key data.

The PTO provides in MPEP § 2131 that

"[t]o anticipate a claim, the reference must teach every element of the claim...."

Therefore, with respect to claim 13, to sustain this rejection the Blasko reference must contain all of the above claimed elements of the claim. However, contrary to the Examiner's position that all elements are disclosed in the Blasko reference, Blasko does not disclose generating a user identifier key from the key data and a user profile history from the extracted profile data in response to the key data corresponding to a key stored in the memory and the extracted profile data failing to correlate to the user profile history stored in the memory in association with the key stored in the memory.

With regard to the claim 13 limitation of "generating a user identifier key from the key data and a user profile history from the extracted profile data in response to the key data corresponding to a key stored in the memory and the extracted profile data failing to correlate to the user profile history stored in the memory in association with the key stored in the memory," the Examiner cited the following passage of Blasko as allegedly disclosing such a method step:

If one or more deterministic features are present, the evaluator 702 communicates to a secure correlation server 708 for **correlating the user identification with the previously stored profile vector information**. This correlation helps to identify

the user's preferences and interests and thus assist in providing one or more customized/personalized incentives/offers to the user. It is contemplated that identity correlation would only be done with the user's explicit permission, for example, on a subscription basis.

Blasko, Paragraph 130 (**Emphasis Added**).

With regard to the cited passage of Blasko, the Examiner stated the following:

Blasko teaches...generating a user identifier key (i.e. "profile ID") from the key data and generating a user profile history (i.e. "profile vector") from the extracted profile data in response to the key data (i.e. "transaction ID") corresponding to a key stored in the memory and the extracted profile data failing to correlate to the user profile history stored in the memory in association with the key stored in the memory...

Final Office Action dated 9 January 2008, Pages 3 and 5.

Appellants respectfully disagree. Here, Blasko only describes correlating a user ID with stored profile information. Blasko in no manner describes, suggests, or otherwise alludes to generating a profile ID from the transaction ID and profile vector from extracted profile data in response to the transaction ID corresponding to a profile ID stored in memory and the profile data failing to correlate to the profile vector stored in the memory in association with the profile ID stored in memory. Thus, according to the Examiner's interpretation of Blasko, Blasko is necessarily precluded from disclosing a method of generating a user identifier from key data and a user profile history from extracted profile data in response to key data corresponding to a key stored in memory and **the extracted profile data failing to correlate to the user profile history stored in the memory in association with the key**. For at least this reason, Blasko is insufficient to anticipate claim 13.

Independent claim 1 recites similar features as claim 13 and was rejected under similar rationale. Therefore, the same distinctions between Blasko and the claimed invention in claim 13 apply for claim 1. Therefore, Appellants believe the rejections of claims 1 and 13 are not supported by the Blasko reference, and such a notice is respectfully requested.

Claims 2-12 and 14-24 depend from, and further limit, one of claims 1 or 13. Therefore, the same distinctions between Blasko and the claimed invention in claim 1 and 13 apply for claims 2-12 and 14-24. For at least this reason, Blasko is insufficient to anticipate claims 2-12 and 14-24.

Conclusion

For all of the foregoing reasons, it is respectfully submitted that claims 1-24 be allowed.
A prompt notice to that effect is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. McDonald', with a large circular flourish at the end.

Steven T. McDonald
Registration No. 45,999

Dated: 11 August 2008

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2722 Creek Crossing Drive
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Telephone: 214.566.9362
Docket No.: 9696

CLAIMS APPENDIX

1. A system for profiling different users having a common terminal identifier comprising:
 - memory for storing user profile histories, each user profile history being stored in association with a key;
 - a server for receiving user activity data from clients over a computer network;
 - a user activity data analyzer for receiving the user activity data from the server and for extracting profile data from the user activity data;
 - a user identifier for searching the user activity data for key data that identifies one of a user terminal and a user account and for determining whether the key data located in the user activity data corresponds to a key stored in the memory; and
 - a user profile generator for generating a user profile history from the extracted profile data and a user identifier key from the key data in response to the key data corresponding to a key stored in the memory and the extracted profile data not corresponding to the user profile history stored in the memory in association with the key that corresponds to the key data, the generated user identifier key indicating the generated user profile history is associated with a user that is different than a user associated with the key stored in the memory.
2. The system of claim 1 wherein the user activity data is session data.
3. The system of claim 1 wherein the user activity data is browse period data.
4. The system of claim 1 wherein the extracted profile data includes a site identifier, a resource identifier, and a terminal identifier.

5. The system of claim 4 wherein the user profile generator generates the user profile history and the user identifier key in response to the key data corresponding to a key stored in the memory and to a low level of correlation existing between the site identifier and the resource identifier of the extracted profile data and site identifiers and resource identifiers in the user profile history stored in the memory in association with the key that corresponds to the key data.

6. The system of claim 5 wherein the extracted profile data includes metadata associated with the site identifier and the resource identifier.

7. The system of claim 1 wherein the user identifier identifies a user at a terminal identified by a computer identifier that generated the user activity data received by the server by determining which one of at least two user profile histories, each of which is stored in the memory in association with a key, each key being associated with the computer identifier that corresponds with the extracted profile data; and the system further includes:

an advertising selector for selecting an advertising file for transmission to the terminal, the selected advertising file corresponding to the identified user.

8. The system of claim 4 wherein the terminal identifier is a cookie.

9. The system of claim 4 wherein the terminal identifier is an Internet protocol (IP) address.

10. The system of claim 6 wherein the terminal identifier is a subscriber identifier.

11. The system of claim 10 wherein the subscriber identifier identifies a cable television network subscriber, the session data identifies a tuned channel, and the metadata identifies program content on the tuned channel.

12. The system of claim 11 wherein the user identifier identifies a user at a terminal identified by a terminal identifier that generated the user activity data received by the server by determining which one of at least two user profile histories, each of which is stored in the memory in association with a key, each key being associated with the terminal identifier, corresponds with the extracted profile data; and the system further includes:

an advertising selector for selecting an advertising file for transmission to the terminal, the selected advertising file corresponding to the identified user.

13. A method for profiling different users having a common terminal identifier comprising:

storing user profile histories in a memory, each user profile history being stored in the memory in association with a key;

receiving user activity data at a server from clients over a computer network;

receiving the user activity data from the server;

extracting profile data from the user activity data;

searching the user activity data for key data that identifies one of a user terminal and a user account;

determining whether the key data located in the user activity data corresponds to a key stored in the memory;

generating a user identifier key from the key data and a user profile history from the extracted profile data in response to the key data corresponding to a key stored in the memory and the extracted profile data failing to correlate to the user profile history stored in the memory in association with the key stored in the memory;

storing the generated user identifier key in the memory; and

storing the generated user profile history in the memory in association with the generated user identifier key and the key to which the key data corresponded so the generated user profile history is associated with a user that is different than a user associated with the user profile history stored in association with the key stored in memory to which the key data corresponded, but both the generated user profile history and the user profile history stored in the memory are associated with the key that corresponded to the key data.

14. The method of claim 13 wherein the profile data is extracted from session data.

15. The method of claim 13 wherein the profile data is extracted from browse period data.

16. The method of claim 13, the determination that the key data corresponds to a key stored in the memory includes: comparing a site identifier and a resource identifier in the extracted profile data with site identifiers and resource identifiers in user profile histories stored in the memory.

17. The method of claim 16, the comparison of the site identifier and the resource identifier in the extracted profile data to site identifiers and resource identifiers in user profile histories further comprising:

detecting a low level of correspondence between the site identifier and the resource identifier of the extracted profile data and the site identifiers and resource identifiers in a user profile history stored in the memory.

18. The method of claim 16 wherein the profile data extraction extracts metadata associated with the site identifier and the resource identifier in the extracted profile data.

19. The method of claim 13 further comprising:

identifying a user at a terminal identified by a computer identifier that generated the user activity data received by the server by determining which one of at least two user profile histories, each of which is stored in the memory in association with a key, each key being associated with the computer identifier, corresponds with the extracted profile data; and

selecting an advertising file for transmission to the terminal, the selected advertising file corresponding to the identified user.

20. The method of claim 16 wherein the comparison of site identifiers in the extracted profile data and the user profile histories stored in the memory compares cookies.

21. The method of claim 16 wherein the comparison of site identifiers in the extracted profile data and the user profile histories stored in the memory compares Internet protocol (IP) addresses.

22. The method of claim 18 wherein the profile data extraction extracts a subscriber identifier that identifies a subscriber site on a cable television network.

23. The method of claim 22 wherein the profile data extraction extracts a tuned channel identifier and metadata, the tuned channel identifier identifying a transmission channel to which a receiver is tuned at the identified subscriber site and the metadata identifies program content on the tuned channel.

24. The method of claim 23 further comprising:

identifying a user at the subscriber site identified by the subscriber identifier by determining which one of at least two user profile histories, each of which is stored in the memory in association with a key, each key being associated with the subscriber identifier for the subscriber site at which the user tuned the channel, corresponds with the extracted profile data; and

selecting an advertising file for transmission to the subscriber site, the selected advertising file corresponding to the identified user.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.